Calendar No. 809

101ST CONGRESS *2d Session*	SENATE	REPORT 101-454

NONDEVELOPMENTAL ITEMS ACQUISITION ACT OF 1990

REPORT

OF THE

COMMITTEE ON GOVERNMENTAL AFFAIRS UNITED STATES SENATE

TO ACCOMPANY

S. 1957

TO PROVIDE FOR THE EFFICIENT AND COST EFFECTIVE ACQUISITION OF NONDEVELOPMENTAL ITEMS FOR FEDERAL AGENCIES, AND FOR OTHER PURPOSES

SEPTEMBER 10, 1990.—Ordered to be printed

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SEPTEMBER 10, 1990.—Ordered to be printed

Mr. GLENN, from the Committee on Governmental Affairs, submitted the following

REPORT

[To accompany S. 1957]

The Committee on Governmental Affairs, to which was referred the bill (S. 1957) to provide for efficient and cost-effective acquisition of nondevelopmental items for Federal agencies, reports favorably thereon and recommends the bill as amended do pass.

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I. SUMMARY AND PURPOSE

The purpose of S. 1957 is to encourage Federal agencies to save money by purchasing products that are commercially available or have already been developed for other agencies in lieu of specially-designed and developed products. These products that are already in use or could be available to meet government needs with only minor modification are called "nondevelopmental items" or "NDI's".

S. 1957 would accomplish this purpose by creating a statutory preference for the acquisition of NDI's; requiring agencies to conduct market research to determine whether NDI's are available to meet their needs; requiring the use of simplified procurement specifications whenever possible; enhancing training for procurement

officials in the acquisition of NDI's; and designating officials responsible for promoting the acquisition of NDI's.

The bill would also make it easier for Federal agencies to purchase commercial products and for manufacturers to sell such products to the government. S. 1957 would reduce impediments to the sale of commercial products to the government by requiring Federal agencies to eliminate unnecessary and burdensome contract clauses, tailor appropriate inspection requirements for NDI's, and reduce paperwork requirements for commercial contractors. It would facilitate the purchase of commercial products by requiring the development of government-wide regulations on the use of "market acceptability"—i.e., the successful use of products in either the public or the private sector—as a permissible consideration in purchase decisions.

II. Background and Need for Legislation

Nondevelopmental items, or "NDI's", are products that are or soon will be available in the commercial marketplace; previously developed products that are or soon will be in use by Federal, state, or local governments; and modified versions of such products that meet the requirements of Federal agencies.

Federal agencies can save substantial amounts of time and money by purchasing NDI's instead of comparable products that are specially designed and built for agency use. The acquisition of NDI's can lower initial purchase costs by reducing or eliminating the need for research and development. Acquisition leadtime can be reduced since NDI's are readily available and can be produced on existing production lines. Because the product is already developed and has been shown to work, the need for detailed design specifications and extensive testing is also reduced.

Unfortunately, the efficient acquisition of nondevelopmental items is impeded when Federal agencies impose complicated specifications and unnecessarily burdensome contract requirements. Such inappropriate specifications and requirements disqualify some sellers of NDI's and discourage others from doing business with the government.

In 1989, the Governmental Affairs Committee's Subcommittee on Oversight of Government Management conducted an extensive review of the acquisition of NDI's by the Department of Defense. In a Subcommittee Report issued October 30, 1989 (S. Prt. 101-62), the Subcommittee found that, despite legislation enacted in 1986, the Department continued to use overly detailed specifications, impose inappropriate and burdensome contract requirements on commercial contractors and subcontractors, and require the submission of extensive contract data when such data were not needed.

In 1990, the Subcommittee examined the acquisition of NDI's by civilian agencies and discovered similar problems. In testimony before the subcommittee, the Computer and Business Equipment Managers Association (CBEMA) provided the following example of an inappropriately detailed specification used by civilian agency:

> In a competitive acquisition of off-the-shelf computer equipment by a civilian agency, the specifications contained a requirement that the items supplied be a particu-

> lar color. The winning vendor's entire product line comes off an assembly line in one standard color (but not the required color!). After award, the vendor had to send the equipment side panels designated for Government delivery to a local shop to be repainted to the conforming color.

Similarly, CBEMA provided the following example of unnecessarily restrictive contract requirements imposed in a solicitation by a civilian agency:

> A certain Government requirement for an automated distribution system sought solutions from commercial sources and stipulated proven "off-the-shelf" hardware. However, when the RFP was released, it was full of MIL-STDs, process reviews and approvals. . . . The Government added manufacturing controls, baseline management, a cost-schedule control system and cost estimating requirements. Most commercial vendors could not comply and did not bid. The two that did, did so through systems integrators who have Government financial and manufacturing controls in place. The acquisition took over one and one-half years.

David Packard, who chaired the President's Blue Ribbon Commission on Defense Management (the "Packard Commission") in 1986, explained the need for reform in a June 19, 1990 letter to Senator Levin:

> Today a new commercial product is often very difficult to buy in the federal government. Insistence on submission of cost and pricing data from commercial companies because a product is new or innovative is a government practice which serves no one well. Market research, price analysis, comparative market analysis, and other similar techniques, should allow the government to determine a fair range of price reasonableness as a basis for negotiations.
>
> . . .
>
> Buying quality is another critical objective, and while the law allows it today, day-to-day practice does not. What is needed are more functional specifications and a forthcoming approach to revealing what the government actually needs in a procurement. . . . This sort of cultural change could be implemented beginning today if the management commitment were made to do so.

For these reasons, Mr. Packard endorsed S. 1957, as introduced by Senators Levin, Cohen, Glenn and Roth. Similarly, Don Fuqua, the President of the Aerospace Industries Association of America, stated in June 13, 1990, testimony before the Senate Armed Services Committee:

> The acquisition of commercial products by DoD can best be improved by the full and prompt regulatory implementation of Section 824 of the fiscal year 1990 Defense Authorization Act, and enactment of a companion statute to deal with civilian agencies, as proposed by Senators Levin,

Glenn, Cohen, and Roth in S. 1947, the "Nondevelopmental Items Acquisition Act of 1989."

III. Legislative History

S. 1957, the Nondevelopmental Items Acquisition Act of 1989, was introduced by Senators Levin, Cohen, Glenn and Roth on November 21, 1989. As introduced, S. 1957 contained provisions virtually identical to those already applicable to the Department of Defense through Section 907 of the National Defense Authorization Act for Fiscal Year 1987 and Section 824 of the National Defense Authorization Act for Fiscal Years 1990 and 1991.

Section 907, which was sponsored by Senator Levin, created a preference for the use of simplified preformance specifications and the acquisition of NDI's. This provision also required the Department to identify impediments to the acquisition of NDI's and to take appropriate steps to remove such impediments.

Section 824, which was sponsored by Senators Levin and Cohen, required DOD to develop a simplified uniform contract for the acquisition of commercial products; develop a streamlined inspection clause for commercial products; and revise regulations to require the disclosure of detailed "cost or pricing data" only when such disclosure is necessary.

Section 824 arose out of an extensive review of DOD's acquisition of NDI's by the Subcommittee on Oversight of Government Management. The Subcommittee held two days of hearings, on May 16 and June 1, 1989, and issued a report on October 30, 1989. At the May 16 hearing, the Subcommittee heard testimony from Robert Rossow of Midland Brake, Inc.; Naomi Williamson of Honeywell, Inc.; Dan Pinick of the Boeing Company; John Fluke, Jr. of John Fluke Manufacturing Co.; and Al Herman of Tektronix, Inc. At the June 1 hearing, the Subcommittee heard testimony from Deputy Secretary of Defense Donald J. Atwood; Deputy Assistant Secretary of Defense for Procurement Eleanor R. Spector; and Assistant for Commercial Acquisition Gregory Saunders.

The Subcommittee held a hearing on S. 1957 on April 26, 1990. At this hearing, the Subcommittee heard testimony from Administration witnesses including: Alan V. Burman, Administrator of the Office of Federal Procurement Policy (OFPP); Richard G. Austin, Administrator of the General Services Administration (GSA); Richard Hopf, Associate GSA Administator for Acquisition Policy. The Subcommittee also heard testimony from three contractor witnesses representing member companies of the Computer and Business Equipment Manufacturers' Association (CBEMA): David Burke of Digital Equipment Corporation; Thomas A. Ryan of Xerox Corporation; and Ron W. Gallier of Multigraphics, Inc.

In addition to commenting on S. 1957, the Administration witnesses testified about their own commercial products proposal, which was introduced in the Senate as Section 202 of S. 2440, the Defense Management Improvement Act. The Administration representatives indicated that while they would prefer the approach taken in Section 202, S. 1957 is a constructive approach which they can support. Section 202 was criticized by the contractor witnesses, who stated their preference for the approach taken in S. 1957.

Subsequent to the hearing, the Subcommittee prepared a substitute amendment to S. 1957, on the basis of the testimony at the hearing and more detailed comments provided by the participants subsequent to the hearing.

On July 23, 1990, the Subcommittee approved the substitute amendment to S. 1957 by a unanimous 9–0 vote. On July 25, 1990, the full Governmental Affairs Committee reported favorably on the bill as amended by voice vote.

IV. Section-by-Section Analysis

S. 1957 contains the following provisions:

Section 1 states the short title of the Act.

Section 2 contains the findings and purpose of the Act. The purpose of the Act is to reduce research and development costs, minimize acquisition lead times, open up competition, and increase Federal access to commercial innovations by establishing a preference for the acquisition of NDI's and removing impediments to such acquisitions.

Section 3 codifies requirements for the acquisition of NDI's and commercial products by adding a new Section 303H to the Federal Property and Administrative Services Act (41 U.S.C. Sec. 253h), addressing the acquisition of NDI's and commercial products by civilian agencies.

Subsection (a) of 303H parallels the DOD provision in Section 2325 of Title 10, U.S. Code (added by Section 907 of the FY 1987 Defense Authorization Act), which defines NDI's; creates a preference for the acquisition of NDI's; and requires Federal agencies to state requirements in terms of functions or performance, rather than detailed design specifications, to the maximum extent practicable.

NDI's are defined to include products that are or soon will be in use in the commercial market place or the government sector, and would meet government needs with only minor modifications. Although this definition does not encompass products that would require substantial modification to meet government needs, it is not intended to prohibit or discourage the purchase of such products, if no NDI's are available and the products otherwise meet government needs. Although NDI's are defined as items of supply, they may include such services as are customarily provided with the product in the commercial sector.

This Subsection would also require Federal agencies to conduct market research, prior to developing new specifications, to determine whether nondevelopmental items are available or could be modified to meet agency needs. The bill contains a conforming amendment to Section 2325 of Title 10, which would impose an identical requirement on the Department of Defense.

Subsection (b) of 303H would require the use of standardized contract and subcontract clauses for the acquisition of commercial items by Federal agencies. This provision parallels the requirements imposed on DOD by Section 824 of the FY 1990–91 Defense Authorization Act. Paragraph (1) would require the development of a simplified, uniform contract for commercial acquisitions. Paragraph (2) would limit the "flow-down" of contract clauses to sub-

contractors in commercial contracts. Paragraph (3) of Subsection (b) clarifies that DOD would be permitted to use the simplified contract developed pursuant to Section 824 in lieu of the government-wide contract developed pursuant to this Act.

Subsection (c) of 303H addresses the use of inspection and warranties in the acquisition of commercial products. Similar requirements were included in Section 824 of the FY 1990–91 Defense Authorization Act. Paragraph (1) would authorize the use of modified, streamlined inspection clauses that take into account the contractor's past performance and warranties. Paragraph (2) would require Federal agencies to take advantage of warranties to the maximum extent practical and to avoid repairing in replacing items at their own expense when such repair and replacement could be conducted under warranty.

This provision is not intended to mandate a single, government-wide inspection or warranty clause for commercial contracts. A number of agencies, including the Department of Defense and the General Services Administration have indicated that they have already developed inspection and warranty provisions that would meet the requirements of subsection (c). The Committee does not intend to require that the government-wide regulations developed pursuant to this provision supercede or preempt such provisions.

Subsection (d) of 303H would require the revision of regulations implementing the commercial products exemption to the Truth In Negotiations Act. Existing regulations establish restrictive percentage tests for sales to the general public and sales at catalog prices that many commercial products cannot meet. In addition, substantial questions have been raised about the applicability of the regulations to new commercial products, old commercial products, modified commercial products, and spare parts for commercial products.

Section 824 of the FY 1990–91 Defense Authorization Act required new regulations implementing the Truth In Negotiations Act, as it applies to the Department of Defense. The Conference Report suggested numerous approaches that could be taken to revising the regulations, including: (1) revising the percentage tests; (2) revising the sales categories established for the percentage tests; (3) allowing greater flexibility in the time period of the application of the tests; (4) creating alternative tests; (5) placing greater emphasis on market prices, rather than catalog prices; and (6) requiring the submission of cost or pricing data only when there is no adequate alternative basis for determining the reasonableness of price.

The Department of Defense has elected to implement Section 824, at least in part, by seeking a revision in government-wide regulations implementing the Truth In Negotiations Act. The Committee agrees that regulations implementing the Truth In Negotiations should be issued on a government-wide basis, to the maximum extent practicable. This provision endorses that approach by requiring appropriate changes to the Federal Acquisition Regulation.

Subsection (e) of 303H addresses the issue of "Market acceptability" requirements—i.e., the limitation of procurements to products

that have been successfully sold in either the public or the private sector.

The purpose of this subsection is to make it easier for federal agencies to use simplified purchase descriptions, as required by subsection (a). Several Administration representatives have testified that market acceptability requirements may be necessary to ensure product quality when a simplified description is used in lieu of a detailed specification.

The Committee intends that market acceptability requirements be used only in conjunction with simplified purchase descriptions. This provision is not intended to require the revision of existing Commercial Item Descriptions, or the inclusion of market acceptability requirements in any simplified purchase description, except where the agency determines that the inclusion of such requirements is necessary to ensure that the product is suitable for agency use or that the processes used to manufacture the product meets established standards.

In a policy letter dated January 2, 1990, the Assistant Secretary of Defense for Production and Logistics directed the development of implementing guidance on market acceptability by no later than January 31, 1990. Despite this directive, the proposed guidance has not yet been published. The regulations required by this subsection would fill that gap and establish criteria for the use of market acceptability requirements on a government-wide basis.

Subsection (f) of 303H would require the promulgation of regulations providing guidance to agencies on the use of past performance of products and sources as a factor in award decisions. In testimony before the Subcommittee on Oversight of Government Management, the Administrator of OFPP indicated the importance of considering indicators of product quality, such as past performance, in purchasing commercial products.

Section 4 addresses the implementation of the requirements in Section 3.

Subsection (a) would require the training of contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items. Section 824(d) of the FY 1990–91 Defense Authorization Act imposed the same requirement on the Department of Defense.

Subsection (b) would amend Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) to make competition advocates responsible for promoting the acquisition of nondevelopmental items. Competition advocates are already responsible for challenging unnecessarily detailed specifications and unnecessarily restrictive statements of need; this amendment makes them responsible for challenging unnecessarily burdensome contract clauses as well.

Subsection (c) would require that regulations implementing the requirements of Section 4 be published for public comment within 270 days after the date of enactment and promulgated within one year after the date of enactment.

Subsection (d), which was added to the bill at the Committee mark-up, would require the General Accounting Office to conduct a study on the adequacy of existing market research mechanisms of federal agencies. This study is intended to facilitate the implemen-

tation of new Section 41 U.S.C. 301H(a), as added by the bill, which would require federal agencies to conduct market research to determine whether existing products will meet their needs, prior to developing specifications for new products.

V. Estimated Cost of Legislation

U.S. Congress,
Congressional Budget Office,
Washington, DC, August 24, 1990.

Hon. John Glenn,
Chairman, Committee on Governmental Affairs,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has reviewed S. 1957, the Nondevelopmental Items Acquisition Act of 1990, as ordered reported by the Senate Committee on Governmental Affairs, July 25, 1990. We estimate that this bill would result in no significant costs or savings to the federal government and in no costs to state and local governments.

S. 1957 would direct the Administrator of the Office of Federal Procurement Policy to issue regulations requiring agencies to fulfill supply needs, to the maximum extent practicable, through the purchase of commercial, "off-the-shelf" products rather than new products designed specifically for the government. In addition, agencies would be required to use standardized contracts for purchasing commercial items and would have to conduct market research to justify using specially designed items instead of commercial items. Agencies' contracting officers and personnel managers would have to be trained in the acquisition of nondevelopmental items. Finally, S. 1957 would require the General Accounting Office to study the adequacy of agencies' current methods of market research.

Essentially, S. 1957 would codify in one body of law procedures that agencies are already required to follow elsewhere in current policy or current law. In the Competition in Contracting Act (41 U.S.C. 401), the Congress has already stated that agencies should use commercial products whenever practicable. In addition, the Defense Authorization Act for 1990 includes requirements for the Department of Defense that parallel many of the requirements in S. 1957. To the extent that some agencies currently may not be fully implementing current policy, S. 1957 might encourage increased use of commercial items which are likely to cost less than specially designed items. But because the bill reinforces the Congressional mandate for current policy, it would not directly result in additional savings. Other provisions of the bill requiring agency studies are not expected to result in significant additional costs.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is James Hearn, who can be reached at 226-2860.

Sincerely,

Robert F. Hale
(For Robert D. Reischauer, Director).

VI. Regulatory Impact of Legislation

Pursuant to the requirements of paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee has considered the regulatory impact of S. 1957.

Section 4 of S. 1957 would require the promulgation of new regulations to implement the requirements of Section 3. The new regulations would reduce, rather than increase, the regulatory burden on affected contractors. For example, the simplified uniform contract for commercial products would limit the number of contract clauses and contract requirements that could be imposed on commercial contractors and subcontractors. Similarly, revised cost or pricing data regulations would reduce the coverage of existing regulations and their impact on private parties. Finally, regulations implementing the inspection and warranties provision would result in less burdensome inspection procedures and greater use of commercial manufacturers' standard warranties.

For these reasons, the Committee concludes that S. 1957 would reduce the regulatory burden on private parties.

VII. Changes to Existing Law

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, changes in existing law made by S. 1957, as reported, are shown as follows: (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

TITLE 10, UNITED STATES CODE: ARMED FORCES

* * * * * * *

§ 2325. Preference for nondevelopmental items

(a) Preference.—The Secretary of Defense shall ensure that, to the maximum extent practicable—

(1) requirements of the Department of Defense with respect to a procurement of supplies are stated in terms of—

(A) functions to be performed;

(B) performance required; or

(C) essential physical characteristics;

(2) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements; [and]

(3) such requirements are fulfilled through the procurement of nondevelopmental items [.] *; and*

(4) prior to developing new specifications, the Department conducts market research to determine whether nondevelopmental items are available or could be modified to meet agency needs.

* * * * * * *

TITLE 41, UNITED STATES CODE: PUBLIC CONTRACTS

PROCUREMENT OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS

SEC. 253h, (a)(1) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall ensure that, to the maximum extent practicable—

(A) requirements of executive agencies with respect to a procurement of supplies are stated in terms of—

(i) functions to be performed;

(ii) performance required; or

(iii) essential physical characteristics;

(B) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements;

(C) such requirements are fulfilled through the procurement of nondevelopmental items; and

(D) prior to developing new specifications, executive agencies conduct market research to determine whether nondevelopmental items are available or could be modified to meet agency needs.

(2) As used in this section, the term "nondevelopmental item" means—

(A) any item of supply that is available in the commercial marketplace;

(B) any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

(C) any item of supply described in subparagraph (A) or (B) that requires only minor modification in order to meet the requirements of the procuring agency; or

(D) any item of supply that is being produced that does not meet the requirements of subparagraph (A), (B), or (C) solely because the item—

(i) is not yet in use; or

(ii) is not yet available in the commercial marketplace.

(b)(1)(A) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall include a simplified uniform contract for the acquisition of commercial items by Federal agencies and shall require that such simplified uniform contract be used for the acquisition of commercial items to the maximum extent practicable. The uniform contract shall include only—

(i) those contract clauses that are required to implement provisions of law applicable to such an acquisition;

(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such an acquisition; and

(iii) those contract clauses that are determined to be consistent with standard commercial practice and appropriate for inclusion in such contracts.

(B) In addition to the clauses described under subparagraph (A) (i) and (ii), a contract for the acquisition of commercial items may include only such clauses as are essential for the protection of the Federal Government's interest in the particular contract, as determined in writing by the contracting officer for such contract, or in a class of contracts, as determined by the agency head with the approval of the Administrator of the Office of Federal Procurement Policy.

(2)(A) The Federal Acquisition Regulation shall require that a prime contractor under a Federal agency contract for the acquisition of commercial items be required to include in subcontracts under such contract only—

(i) those contract clauses that are required to implement provisions of law applicable to such subcontracts; and

(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such subcontracts.

(B) In addition to the clauses described under subparagraph (A) (i) and (ii), a contractor under a Federal agency contract for the acquisition of commercial items may be required to include in a subcontract under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract, or in a class of subcontracts, as determined by the agency head with the approval of the Administrator of the Federal Procurement Policy.

(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department of Defense may use uniform contract and subcontract clauses developed under section 824 of the National Defense Authorization Act for fiscal years 1990 and 1991 in lieu of the uniform contract and subcontract clauses developed under this subsection.

(c) The Federal Acquisition Regulation shall ensure, to the maximum extent practicable, that—

(1) the inspection clause included in each agency contract for the acquisition of commercial items takes into account the contractor's past performance and any warranties the contractor may offer to the Government; and

(2) Federal agencies take advantage of warranties offered by commercial contractors and use such warranties for the repair and replacement of commercial items.

(d)(1) The Federal Acquisition Regulation shall ensure that, to the maximum extent practicable, commercial contractors and subcontractors are required to submit certified cost or pricing data regarding agency contracts and subcontracts only when such data are necessary for the evaluation of the reasonableness of the price of the contract or subcontract, as the case may be.

(2) The revised regulations shall particularly address—

(A) the application of the adequate price competition exemption in the case of a contract or subcontract for the acquisition of a commercial item;

(B) the standards for applying the catalog or market price exemption to contracts and subcontracts for items which are modified commercial items, components of commercial items, spare parts for commercial products, new commercial items, or commercial items which are no longer sold to the public; and

(C) the exemption of any acquisition of a product for which the Administrator of General Services has accepted a certificate of established catalog price that is current.

(e) The Federal Acquisition Regulation shall direct agencies to require, where appropriate and in accordance with criteria prescribed in the regulations, offerors to demonstrate in their offers that products being offered have—

(1)(A) achieved a level of commercial market acceptance necessary to indicate that the products are suitable for the agency's use or that the processes used to manufacture the products meet established commercial or other specified standards; or

(B) been satisfactorily supplied under current or recent contracts for the same requirements; and

(2) otherwise meet the product description, specifications, or other criteria prescribed by the public notice and solicitation.

(f) The Federal Acquisition Regulation shall provide guidance to agencies on the use of past performance of products and sources as a factor in award decisions.

* * * * * * *

§ 418. Advocates for Competition.

* * * * * * *

[(c) The advocate for competition for each procuring activity shall be responsible for challenging barriers to and promoting full and open competition in the procuring activity, including unnecessarily detailed specifications and unnecessarily restrictive statements of need.]

(c) The advocate for competition for each procuring activity shall be responsible for promoting the acquisition of nondevelopmental items and for challenging barriers to such acquisition, including unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses.

○